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SUBJECT: Controversy Over New Human Rights Program Subsidies, for Now

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¶1. Summary: President Lula was caught off guard by the surge of controversy, including within his own government, which followed the GOB's public release of the Third National Program of Human Rights in a December 21 presidential decree. The program in fact is far-reaching, calling for, among other things: establishment of a National Truth Commission to examine human rights violations committed during the period of military rule, 1964-1985; mediation between landowners and those who invade their land before the police forcibly remove the invaders; and creation of a national ranking of media according to their adherence to human rights standards, along with penalties for media that violate human rights. There are a total of 521 "programmatic actions" recommended by the government, most requiring Congressional action or action by the judiciary, public ministry or states. Even Minister of Human Rights Paulo Vannuchi, the principal proponent of the program, admitted that implementation "can take years." Meantime, however, the press reported that Minister of Defense Nelson Jobim and the commanders of the Armed Forces, claiming that the Truth Commission was "revanchist," threatened to resign. President Lula ordered Jobim and Vannuchi to iron out their differences, which they did on January 13, agreeing to change the language creating the Truth Commission but maintaining its essential powers. End summary.

Culmination of a 7-year process

¶2. Since President Lula decreed the Third National Program of Human Rights on December 21, controversy has swelled in the media, in the military and amongst his own ministers. The plan consists of a total of 521 "programmatic actions" recommended by the federal government but often requiring action on the part of Congress (e.g., passing a law) or the judiciary, public ministry (prosecutors) or states before they can be implemented. It is the third such program, the first two having been devised and adopted by the government of Fernando Henrique Cardoso in 1996 and 2002, each program superseding the last.

¶3. Perly Cipriano, National Under Secretary for the Promotion and Defense of Human Rights, told poloff on January 15 that the plan was the culmination of a process begun in 2003. It involved over 50 national-level thematic conferences (on subjects like racial equality, women's rights, food security, etc.) and 137 municipal and regional meetings in which a total of 14,000 people participated. The program that Lula finally decreed was derived from a number of resolutions passed by participants of the Eleventh National Conference of Human Rights in December 2008. During the last year, Cipriano and his colleagues in the Special Secretariat of Human Rights, under the direction of Minister Paulo Vanucchi, reorganized the resolutions and used them to craft the Third National Program of Human Rights. The program not only specifies actions to be taken, but names those organs of government that are responsible.

Truth Commission controversy

¶4. According to Cipriano, 30 ministries have committed to working to fulfill the terms of the program. Significantly, however, it appears that the Ministry of Defense did not participate actively in the elaboration of the plan and, unlike most ministers, Minister of Defense Jobim did not put his signature on the presidential decree. In the weeks following issuance of the decree, Jobim was the highest profile and most powerful of the program's critics, reportedly threatening to resign along with the three commanders of the Armed Forces if the provision to establish a National Truth Commission was not changed.

¶5. The Truth Commission, according to the terms of the December 21 decree, would "promote the verification and public explanation of human rights violations committed in the context of political repression" by the military regime of 1964-1985. The measure called for a bill creating the commission to be submitted to Congress by April 2010. Vannuchi has noted that truth commissions have worked well in Latin American countries like Chile and Argentina and outside Latin America in South Africa. He wrote in an op-ed piece in the December 21 "Correio Braziliense" that the commission would undertake "historical, political, ethical and - if the judicial power so decides - also criminal proceedings with respect to all episodes of torture, assassination and disappearances of political dissidents." He added that the purpose was "not to open wounds of the past, but to guarantee necessary healing in the spirit of reconciliation."

¶6. Particularly troubling to the military and Defense Minister Jobim was the suggestion of criminal prosecutions of the military and members of the 1964-1985 military regime, which they call

"revanchist." To them the measure effectively overturned the 1979 Amnesty Law, which provides broad protections against prosecution for crimes committed during the military era, whether by the military or by left-wing guerrilla groups. They also pointed out that the measure in the Human Rights Program was one-sided, in that it called for investigation only of abuses committed by the regime, and not those committed by their left-wing enemies (some of whom are in government today).

¶7. The controversy was fully aired in the press with Vannuchi reportedly threatening to quit the government if the Truth Commission were dropped from the Human Rights Program. President Lula ordered Vannuchi and Jobim to work out their differences. In a meeting on January 13, lasting only 50 minutes, Vannuchi and Jobim arrived at a compromise: the words "promote the verification and public explanation of human rights violations" were changed to "examine human rights violations" and the words, "in the context of political repression" were deleted; the essential powers of the Truth Commission and the timeline for submitting a bill to Congress remain unchanged. While Jobim has expressed satisfaction with the compromise, the military leadership has not. As noted in reftel, any change to the Amnesty Law provisions will meet with strong military opposition.

#### Boost to the Landless Movement

¶8. Also dividing the government, though not nearly as severely as the Truth Commission, was a measure in the Human Rights Program that requires mediation between landowners and those who invade their land before the police forcibly remove the invaders. Such mediation would take place in the presence of the public ministry (prosecutors), local officials, "specialized governmental organs," and the Military (that is, uniformed) Police.

¶9. Opposition Senator Katia Abreu, who is also president of the National Confederation of Agriculture, told the press that the measure, by complicating and delaying evictions, will encourage and strengthen organizations like the Landless Movement which seize farmland illegally. Appearing to echo Abreu's sentiments, Minister of Agriculture Reinhold Stephanes said that the measure will "increase insecurity in the countryside." Stephanes was then publicly contradicted by Minister of Agrarian Development Guilherme Cassel who noted that Stephanes, along with all other ministers, had four months to ponder the draft Human Rights Program and raise any objections they might have had. Cassel said that mediation, "especially for rural questions, is correct because it leads to negotiated solutions."

Media to be monitored by government

¶10. The Human Rights Program calls for creation of "a national ranking of vehicles of communication that promote human rights principles, as well as those that commit violations." Radio and television broadcasters would be subject to "administrative penalties such as warning, fine, suspension of programming and cancellation, in accordance with the seriousness of the violations committed." Presumably, the media will be measured against "a national system of human rights indicators," which is called for in a section of the plan on "mechanisms of social control."

¶11. The Brazilian Association of Radio and Television Broadcasters, National Association of Magazine Editors and National Association of Newspapers issued a joint note to the press on January 8 calling the GOB's proposal "a threat to freedom of expression." They said that "mechanisms for control of information" are "flagrantly unconstitutional." Brazil's newspaper of record, "O Estado de S. Paulo," went even further in a January 19 editorial, seeing the plan in the context of a broader effort on the part of the Lula Government "to liquidate the rule of law and install in Brazil an authoritarian regime."

Abortion, civil unions, religious symbols

¶12. Other controversial proposals in the Human Rights Program are to decriminalize abortion, support civil unions of same-sex couples and ban the display of religious symbols on all federal government buildings - all actions opposed the National Conference of Brazilian Bishops of the Catholic Church. Lula has indicated that he may backtrack on the decriminalization of abortion issue but has not publicly commented on civil unions or religious symbols on public buildings.

Comment

¶13. The Human Rights Program is a statement of government policy and a plan of action; by itself it changes nothing. Cipriano, a former member of the Brazilian Communist Party and a political

prisoner from 1970 to 1979, called the plan "an orientation." The GOB must now begin the long and arduous task of persuading allies and, if possible, some opponents of the wisdom of such an orientation. Even in the estimation of Vannuchi, the plan's main proponent, implementation "can take years." Because the plan is vast, divisible and controversial, and was announced in the last year of the Lula government, much of it may never be implemented. Nonetheless, the plan has already exposed several unresolved fissures in Brazilian society: between the military and civilians with regard to abuses that occurred during the military regime, between landholders and a still potentially troublesome landless movement, between those who champion freedom of the press and those who see the media as often irresponsible in the exercise of that freedom, and between Brazil's traditional conservative morals and its principled support for tolerance and human rights. Whether or not the plan is taken up by the new Brazilian government that takes office January 1, 2011, these fissures are unlikely to end with significant disruptions in Brazilian society or politics, but will remain a source of friction, and occasional headlines, for years to come.

KUBISKE